

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 04-10194-RCL
)	
FRANCIS MUOLO, <u>et al.</u> ,)	
)	
Defendants.)	

GOVERNMENT'S RESPONSE TO DEFENDANT MUOLO'S MOTION TO SEVER

The defendant, Francis Muolo ("Muolo") has moved to sever his trial from his co-defendants on the grounds that the government will offer prejudicial hearsay statements of his co-defendants in contravention of Bruton v. United States, 391 U.S. 123 (1968).

The government, citing the anticipated introduction into evidence of Muolo's own out-of-court statements to law enforcement, has not opposed the motions to sever from a joint trial with Muolo filed by co-defendants, David Jordan and Anthony Bucci. [Docket #'s 128,138,152,155]. Thus, Muolo's motion to sever would seem to be moot at this point. However, Muolo has also filed a motion to suppress his statements made to law enforcement officers. [Docket # 133]. If the Court were to grant that motion to suppress, then Muolo's severance claim would then require a substantive response and a decision by the Court.¹

¹The factual support for Muolo's motion to sever refers only to statements made by co-defendant Bucci captured in prison recordings. The government does not currently intend to introduce those recordings at any joint trial.

Therefore, the government requests leave to postpone any final response to Muolo's motion to sever pending the resolution of his motion to suppress statements.

Respectfully submitted,

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